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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROMIE DALA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-74406

Agency No. A095-634-603

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 13, 2009**

Before: GRABER, GOULD, and BEA, Circuit Judges.

Romie Dala, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his claims for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence factual determinations and we will reverse only if any reasonable adjudicator would be compelled to conclude to the contrary. *INS v. Elias-Zacarias*, 502 U.S. 478, 481 n.1 (1992). We deny in part and grant in part the petition for review.

The record does not compel the conclusion that Dala established extraordinary or changed circumstances to excuse his untimely filed asylum application. *See* 8 C.F.R. §§ 1208.4(a)(4), (5); *Ramadan v. Gonzales*, 479 F.3d 646, 657-58 (9th Cir. 2007) (per curiam). Accordingly, we deny the petition as to the asylum claim.

The agency erred by refusing to consider the evidence regarding whether Dala belonged to a disfavored group in assessing his withholding of removal claim, so we remand to the BIA for reconsideration of this claim. *See Wakkary v. Holder*, 558 F.3d 1049 (9th Cir. 2009); *INS v. Ventura*, 537 U.S. 12, 16-18 (2002) (per curiam).

Substantial evidence supports the agency's determination that Dala is not entitled to CAT relief because Dala did not present evidence that he would be tortured by, or with the acquiescence of, public officials or governmental sources if returned to Indonesia. *See Wakkary*, 558 F.3d at 1067-68.

**PETITION FOR REVIEW GRANTED in part; DENIED in part;
REMANDED.**